

**REMARKS**

By this amendment, Claims 1, 12, 19-22 and 29 have been amended. Claims 6-11 and 13-18 have been cancelled. Claims 30-34 have been added. Hence, Claims 1-5, 12, 19-34 are pending in the application. The amendments to the claims as indicated herein do not add any new matter to this application. Furthermore, amendments made to the claims as indicated herein have been made to exclusively improve readability and clarity of the claims and not for the purpose of overcoming alleged prior art.

Each issue raised in the Office Action mailed August 15, 2006 is addressed hereinafter.

I.     **ISSUES RELATING TO STOWELL, POSTELNIK AND BECKER**

Claims 1-5, 12, and 19-24 and 28-29 are rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Stowell et al. (Published App. 20020099579, hereinafter *Stowell*) in view of Postelnik et al. (U.S. Pat. No. 7,069,235, hereinafter *Postelnik*). The rejection is respectfully traversed.

**A.     The Office Action Addresses Superseded Claims**

The rejection of Claims 1-5, 12, and 19-24 and 28-29 is fundamentally defective because the present Office Action fails to consider the amended claims that *Applicants presented in their last reply*. Instead, the Office Action addresses superseded claims. In addition, the Office Action makes no correlation to the cited references in rejecting Claims 28 and 29. As a result, a *prima facie* case for rejecting Claims 1-5, 12, and 19-24 and 28-29 has not been established by the Office Action. Withdrawal of the rejection on this ground alone is respectfully requested.

Furthermore, since the Office Action fails to provide a specific identification of which passage(s) in the cited references allegedly correlates to each feature of the amended claims and Claims 28 and 29, Applicant has had to engage in guesswork in making up the missing

correlation between the claims and the references cited in the Office Action. *Clarification is requested.*

**B. Becker does not Qualify as Prior Art**

The rejection of Applicants' claims is further defective because a new reference cited in the Office Action does not qualify as prior art. The Office Action on page 5 cites Becker et al. (Specifying Information System for Business Process Integration – A Management Perspective) in its response to Applicants' previous arguments. However, *Becker was published after April 2003, long after the filing date – April 30, 2001 – of the instant application.* Thus, Becker cannot be used as a reference in rejecting Applicants' claims. Reconsideration is respectfully requested.

**C. Claim 1**

Communicating Forecast to a Direct Contract Manufacturer

Present Claim 1 recites, inter alia, a feature of "communicating to a direct contract manufacturer a forecast for a product, wherein the direct contract manufacturer is a manufacturer of the product and is a supply chain partner in the plurality of supply chain partners". Both *Stewell* and *Postelnik* fail to disclose the recited feature.

*Stewell* describes a stateless, event-monitoring server system that monitors performance of participation between buyers and suppliers (Abstract). The system described in *Stewell* allows a buyer to select a supplier from suppliers that matches some criteria (paragraph 0118) and enter a business relationship with the supplier through a Request For Proposal (RFP) or Request For Quote (RFQ) process (paragraph 0019). After the business relationship is thus formed, the system in *Stewell* monitors performance of the business relationship using pre-specified KPI'S,

pre-set business rules and thresholds agreed upon by the parties. (paragraph 0020). Nowhere in *Stewell* is *communicating a forecast to a direct contract manufacturer* discussed.

*Postelnik* describes a multi-source transaction processing system that takes an order request such as an order placement from a customer, splits the order placement into multiple portions corresponding to different items in the order placement, and routes the multiple portions to different providers (Abstract; FIG. 4; col. 12 lines 1-20). The multi-source transaction processing system in *Postelnik* provides to a reseller a virtual direct sale model to customers (col. 8 line 8-10). Like *Stewell*, nowhere in *Postelnik* is a direct contract manufacturer discussed. Nor is *communicating a forecast to a direct contract manufacturer* discussed anywhere in *Postelnik*.

Since neither *Stewell* nor *Postelnik* discloses this feature recited in Claim 1, a combination of the two cannot possibly disclose *communicating a forecast to a direct contract manufacturer*, as featured in Claim 1.

Receive a Master Schedule and a Gross Demand

Claim 1 also recites “receiving a master schedule and a gross demand for the product from the direct contract manufacturer”. Both *Stewell* and *Postelnik* fail to disclose these features of Claim 1.

*Stewell* is fundamentally about connecting a buyer to a supplier through a stateless, event monitoring system. *Postelnik*, on the other hand, is about presenting a single source of information (e.g., a PC and peripheral reseller) to a customer (e.g., who orders a PC and peripheral equipment), even though different portions of an order from the customer may be fulfilled by different fulfillment partners (e.g., a fulfillment partner for the PC and another fulfillment partner for the peripheral equipment).

Because neither *Stowell* nor *Postelnik* is about connecting an entity with its direct manufacturers and other downstream supply chain partners in a contract manufacturing supply chain, there is simply no disclosure in either *Stowell* or *Postelnik* that describes a master schedule or a gross demand from a direct contract manufacturer, or a feature of receiving the same, as recited in Claim 1.

Communicating Alerts to Partners at Three or More Levels

In addition, Claim 1 recites “*communicating* in a substantially concurrent way one of the alerts to *the three or more supply chain partners at three or more respective levels* of the supply chain who are participating in a transaction to which the discrepancies relate” (emphasis supplied). Both *Stowell* and *Postelnik* fail to disclose the recited feature.

Claim 1 provides for identifying discrepancies in an outsourced manufacturing supply chain. By communicating alerts to supply chain partners participating in a transaction to which discrepancies pertain, it is possible to notify partners at their respective levels in the supply chain so they can seek remedies.

Such a method is not disclosed by *Stowell*. Instead, *Stowell* discloses generating alerts between two parties in a direct business relationship. (See for example paragraphs 29, 78, 93, and 104). For example, *Stowell* states, “[a]lerts may be generated based on deviations, violations, changes or any parameters with respect to the key performance indicators.” Accordingly, the breaching party is alerted. “Escalating levels of personnel may be notified **within an organization** and eventually, **the other contract member** may be notified if a violation with respect to a key performance indicator occurs or is occurring.” (*Stowell* paragraph 29). *Stowell* repeats this teaching throughout its application. Paragraph 93 states, “[t]he data analysis process involves determining whether violations occur, establishing trends **between two**

**partners.”** Paragraph 104 reiterates, “buyer may communicate with supplier. . . [and] the messages passed from buyer may then be transmitted through to supplier who may create messages to pass back through supply performance management system to buyer.”

Since the communication of alerts in *Stowell* only involves two partners in a direct buyer-supplier relationship, *Stowell* fails to disclose communicating in a substantially concurrent way one of the alerts to the three or more supply chain partners at *the three or more respective levels* of the supply chain who are participating in a transaction to which the discrepancies relate.

*Postelnik* does not describe alerts or generating alerts, let alone communicating alerts. Since neither *Stowell* nor *Postelnik* discloses this feature recited in Claim 1, a combination of the two cannot possibly disclose *communicating an alert to the partners at three or more respective levels*, as featured in Claim 1.

*Stowell* and *Postelnik* Cannot Be Combined

A combination of *Stowell* and *Postelnik* is legally improper because the proposed combination would violate their respective principles of operations. Specifically, *Stowell* describes a stateless monitoring system that provides a buyer to directly interact with any supplier the buyer selects. *Postelnik*, on the other hand, describes a reseller system that purposefully acts like a direct seller for all other sellers -- downstream fulfillment partners -- as if it were a single source of information for a user, thereby preventing the user from forming a direct business relationship with the other sellers. Thus, *Stowell* describes a system that works in an exactly opposite manner from the system described in *Postelnik*.

For the reasons set forth above, Claim 1 is patentable over *Stowell* in view of *Postelnik*. Reconsideration and withdrawal of the rejection with respect to Claim 1 are respectfully requested.

**D. Claims 19-22**

Claims 19-22 recite similar features as recited in Claim 1. Thus, these claims are also patentable over *Stowell* in view of *Postelnik*. Reconsideration and withdrawal of the rejection with respect to these claims are respectfully requested.

**E. Claims 2-5, 12, 23, 24 and 28-34**

Claims 2-5, 12, 23, 24 and 28-34 include the features discussed above through their dependency on independent claims 1 and 19-22. Therefore, each of Claims 2-5, 12, 23, 24 and 28-34 is also patentable over *Stowell* or *Postelnik* for the same reasons given above for the independent claims. Further, each of Claims 2-5, 12, 23, 24 and 28-34 recites a feature that separately renders that claim patentable. Reconsideration is respectfully requested.

## II. CONCLUSIONS

For the reasons set forth above, it is respectfully submitted that all of the pending claims are now in condition for allowance. Therefore, the issuance of a formal Notice of Allowance is believed next in order, and that action is most earnestly solicited.

The Office Action is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application.

A petition for extension of time, to the extent necessary to make this reply timely filed, is hereby made. If applicable, a law firm check for the petition for extension of time fee is enclosed herewith. If any applicable fee is missing or insufficient, throughout the pendency of this application, the Commissioner is hereby authorized to any applicable fees and to credit any overpayments to our Deposit Account No. 50-1302.

Respectfully submitted,

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### CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450

on October 13, 2006 by



Martina Placid